

National Association of Federal Credit Unions comments on proposed amendments to Regulation E (Electronic Fund Transfers) and its official staff commentary that address coverage of electronic check conversion services and those providing the services (Docket No. R-1210)

At the meeting of the National Association of Federal Credit Unions on December 2, 2004, Paula Edwards, Director at Large, Nationwide Federal Credit Union, Columbus, Ohio, presented the association's views on proposals to amend Regulation E and its official staff Commentary.

In September, the Board published for comment a proposal to amend 12 C.F.R. Part 205, Regulation E, which implements the Electronic Fund Transfer Act (EFTA). The proposed revisions to the regulation address the coverage of electronic check conversion services and service providers. Under the proposed rule, persons who make electronic check conversion services available to consumers would have to obtain a consumer's authorization for the electronic funds transfer (EFT). The proposed rule also extends the coverage of Regulation E to include payroll card accounts that are established directly or indirectly by an employer on behalf of a consumer for the purpose of providing salary, wages or other compensation on a recurring basis. Revisions to the staff commentary include guidance on pre-authorized transfers, additional electronic check conversion issues and error resolution.

NAFCU supports the Board's amendments to Regulation E that will assist institutions in providing services, including the changes to the commentary in Section 205.10(b). The current language in this section states that a tape-recorded telephone conversation does not constitute proper authentication for the purposes of authorizing pre-authorized EFTs. As a consequence, members are unable to authorize EFT payments over the telephone. We support elimination of this language given the passage of the E-SIGN Act.

NAFCU also appreciates the Board's continuing effort to ensure that consumers are notified of the procedures and their rights regarding electronic funds transfers; however, we are concerned that over-notification will become burdensome to institutions and thereby inhibit consumers' access to services.

In July 2004, the Board requested comments on the adequacy of debit card fee disclosures required under Regulation E. We continue to believe that the current disclosure requirements set forth in the regulation are sufficient to inform consumers about debit card PIN-use fees. It is our understanding that card-issuing institutions currently are required to disclose debit card PIN-use fees as separate line items in their initial account disclosures and in the aggregate with other fees on consumers' account statements. We believe the existing disclosure framework adequately informs consumers of the fee both prior to use of the debit card (in the initial account disclosure) and after use of the card (in the account statement).

NAFCU recommends that the Board review all disclosures required by Regulation E to see if some can be eliminated or combined. NAFCU also requests that when promulgating new rules, the Board recognize and fully consider the increasing regulatory burden on financial institutions.